

REMARKS/ARGUMENTS

1.) Withdrawal of Prior Bases of Rejection

The Examiner has previously rejected the claims several times as being unpatentable over Luo (U.S. Patent Publication No. 2003/0169713 A1) in view of several additional references. In the Final Office Action dated September 4, 2008, the principle claims were rejected as being unpatentable over Lou in view of Philsgard, *et al.* and Jiang, *et al.* The Applicant filed a response traversing that ground of rejection, as well as pointing out that the finality of the office action was improper. The Examiner then issued an Advisory Action arguing that the final office action was not premature, in response to which the Applicant filed a Pre-Appeal Brief Request for Review. In a Notice of Panel Decision from Pre-Appeal Brief Review, the panels withdrew the final rejection. The Examiner has now issued a rejection of the claims over Lou in view of Fascenda (US Patent Publication No. 2004/00073672 A1). It is noted, in particular, that the Examiner's reasons for rejection now state that Luo discloses claim elements which the Examiner specifically acknowledged in prior office actions were not taught by Luo. The Applicant respectfully requests that the Examiner carefully consider Applicant's arguments herein and her basis for continued reliance on the teachings of Luo.

2.) Claim Rejections – 35 U.S.C. §103(a)

The Examiner has rejected claims 1-3 and 7-8 as being unpatentable over Luo (U.S. Patent Publication No. 2003/0169713 A1) in view of Fascenda (US Patent Publication No. 2004/00073672 A1); claims 4 and 5 as being unpatentable over Luo in view of Fascenda and Jeong, *et al.* (Jeong) (U.S. Patent Publication No. 2006/0092888 A1); and claim 6 as being unpatentable over Luo in view of Fascenda and Prasad, *et al.* (U.S. Patent No. 7,197,125 B1). The Applicant traverses the rejections.

Claim 1 recites:

1. A network comprising at least one access point (AP) and one access controlling node, the access points making use of the Inter-Access Point Protocol (IAPP) for communication, wherein at least one mobile station may associate with the access points,

wherein the identity of the mobile station can be approved by the access controlling node, wherein:

the access controlling node monitors whether a given mobile station has access to any of a given subset of access points and monitors an account relating to the given mobile station associated with a given access point of the subset of access points; and,

if detecting that the account relating to the given mobile station has a balance of zero,

the at least one access-controlling node issues at least one IAPP message causing the access point of the subset with which the mobile station is currently associated to disassociate the given mobile station, thereby terminating access for the given mobile station. (emphasis added)

The Applicant's invention is characterized, in part, **by the use of IAPP protocol, which are conventionally used for handover purposes, for access control,** specifically to terminate an association of a mobile station with an access point in response to a determination that an account relating to the given mobile station has a balance of zero. The Applicants have reviewed the teachings of Luo, however, and find no such disclosure.

Furthermore, the Examiner acknowledges that Luo does not teach "detecting that [an] account relating to [a] given mobile station has a balance of zero," instead relying on the teachings of Fascenda. The Examiner, however, has separated the functions of Applicant's claim from the device that performs such function. The step of detecting an account balance, according to Applicant's invention, is performed by an access controlling node. In contrast, Fascenda teaches a process in which a secure token "local to [a] device" contains access parameters that control access of the device to a network. See paragraph [0015]. Thus, Fascenda actually teaches away from the claimed invention.

More importantly, however, the Examiner points to the teachings of Luo that relate to an IAPP announcement message as being equivalent to Applicant's claimed use of the IAPP protocol, by an access-controlling node, to issue "at least one IAPP message causing the access point of the subset with which [a] mobile station is currently associated to disassociate the given mobile station, thereby terminating access for the given mobile station." There is no basis to equate the conventional use of

IAPP messages described by Luo to the novel use thereof for the purpose of Applicant's claimed invention. It appears that the Examiner is, again, merely picking and choosing similar technical terms found in Applicant's claim from sundry references without any regard to the novel functionality embodied by the combination of elements. All inventions are, of necessity, combinations of elements known in the prior art; only God works from scratch. The Examiner, however, does not have that power and must provide a rational basis for combining the recited elements to arrive at the claimed invention. The Examiner has not met that burden. Therefore, the Examiner has not established a *prima facie* basis to reject claim 1 as obvious over Luo in view of Fascenda.

Whereas independent claims 7 and 8 recite limitations analogous to those of claim 1, they are also not obvious over Luo in view of Philsgard and Jiang. Furthermore, whereas claims 2-6 are dependent from claim 1, and include the limitations thereof, they are also not obvious over those references, or further in view of Funato, Sanda or Prasad.

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CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 1-8.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



Roger S. Burleigh
Registration No. 40,542

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Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024

(972) 583-5799
roger.burleigh@ericsson.com